

Reckoning with the New Hegemonists

Speakers:

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Moderator:

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(Transcription by [RA Fisher Ink](#))

Kirkpatrick: Reckoning with the new hegemonists is the topic here, which we did intend to deliberately to flag at our opening video. If you looked at our new magazine, which actually has touched on several of the issues that have been discussed here today. I wrote a big piece myself, which was somewhat for me surprisingly critical of the net giants. Joyce Vance is an attorney who's currently teaching at the University of Alabama, was the U.S. Attorney for the northern district of Alabama for a long time.

Vance: I should say, [I] resigned the night before the inauguration of the current president, just so you know my politics.

Kirkpatrick: That's what I was going to say. But thank you for saying it even more forcefully than I would've. We met on the set of MSNBC talking about this very issue, and she has such interesting things to say. Dave Morgan, who is one of Techonomy's very oldest friends, in fact, maybe our oldest friend, so thank you. We actually located our company in Dave's office, which is Simulmedia in New York, for three years, which was really good free rent. But anyway, Dave is one of New York's great tech entrepreneurs, and is now running his third advertising-related company. And you'll see that that's very relevant to his thoughts about some of the hegemonists.

Finally, Mark Mahaney who is a very long-time, over 20-year security analyst in the technology and internet area, follows Facebook, Google, Amazon, and all the rest at RBC Capital Markets. He's been onstage at Techonomy before, as has Dave, so he's got an investor's view. Maybe the way to start is just to ask all three of you quickly—and we can talk about Facebook,

Amazon, and Google, or throw in Microsoft as you see fit. In general, I see the first three as a little more interesting to discuss, but let's just say Amazon, Facebook, and Google—is there any world in which they can escape regulation in some form, in the relatively near future? We'll start with you, Joyce.

Vance: One issue that really permeates the environment here is that technology has really outstripped the law. When I say that I mean the laws that we use to govern issues like political advertising, those laws and those cases were established, probably ten years before any of the companies that Dave mentioned were really even a glimmer in somebody's mind. So we have an issue here, sort of like an industrial revolution, where the law needs to catch up with the technology. The risk that we face is that we'll come up with slipshod, quick solutions to problems in order to, I think, feed the political beastmaster, right? The folks on the Hill, the folks in the White House feel a lot of pressure right now, as this entire idea that the 2016 election, probably earlier elections, were inhibited by what was going on within the net giants, as those sort of ideas become more widely accepted. So what I would suggest is everybody in this room needs to be concerned about is finding solutions that are based on a realistic understanding of what the problems are, not doing it too quickly, and remembering that you can go fast alone but far together. When you go far together, that's when we get real solutions.

Kirkpatrick: But that is another way of saying you don't see any way they can avoid some sort of regulation.

Vance: I think it's unlikely politically. And so the question is, "Do we get good solutions or bad ones?"

Kirkpatrick: Okay, good. Dave.

Morgan: Well, I think to your actual question, whether they can avoid it, I don't think that's mutually exclusive to whether there is regulation. I think there clearly is going to be regulation coming in that will be targeted at some of these businesses. I think they may be in some cases quite able to avoid an impact of that regulation, because it will be poorly tailored. Their own lobbying powers will be quite effective, and it's just going to be difficult given the nature of their businesses.

Kirkpatrick: Interestingly, Zuckerberg at the earnings release, just as Mark knows just the other day, specifically said, "It will cost us money, and affect our profits to address these issues of electoral interference." He didn't really quite clearly say what he was talking about, or how much money was involved, but it's interesting to me and if that's the sole answer, I'll go to Mark and we'll get back to you. But Mark, wasn't it interesting that statement really got him a lot of mileage didn't it?

Mahaney: Yes, actually, he did put out some numbers. They said they were going to double their capex from \$7 billion to \$14 billion, and increase their operating expenses by over \$10 billion, partially in response to Russia manipulation. And he was very specific about who

manipulated Facebook, partially in response to that. I thought it was the right thing for the company to do. Are these companies going to be regulated? They already are being regulated, in my humble opinion. The question is whether they will be excessively regulated. And I hope not, and I don't think it'd be good for a lot of people if they were. I'm trying to think what exactly you want to overregulate Amazon for, or overregulate—Google is crossing lines I think, and companies like Yelp have been disadvantaged because of Google. I haven't seen which company has been disadvantaged, or which consumer has been disadvantaged because of Amazon, other than straight-up competition. Or Facebook, show me that company. So I worry that they get excessively regulated; they're already being regulated, and I think appropriately.

Kirkpatrick: But let's continue, because you said to me that Google you saw facing more regulatory risk now than it ever has before. Quickly explain why with this one particular situation.

Mahaney: I think it's Europe, I'm not sure why the Department of Justice didn't do some things, but there have clearly been some actions that Google has taken in terms of prioritizing its own properties whether that's Google shop comparison shopping, maps, travel, over that of other vendors, whether it's TripAdvisor, Expedia, and Yelp. There are some questionable practices that should be investigated. As far as I can tell, the entity that has been most aggressive about this has been the European community. All of these companies have got an enormous amount of influence. Now there are other companies that have slightly more influence, that are somehow escaping this regulatory review right now. I think Microsoft would be one, I think Walmart, which is three times bigger than Amazon would be one. It just doesn't seem to be fashionably correct to go after Walmart these days.

Kirkpatrick: But also mention the Android thing.

Mahaney: So Android is—when Google provides Android operating systems to carriers and OEMs; it usually bundles it, so the carrier or the OEM, the handset manufacturer, will get the free Android operating system, but are usually required to bundle with it, Google search, Google Maps, and YouTube. I'm not sure it's a bad thing for those carriers or for the OEMs, but it's certainly something that should be investigated, and it is.

Kirkpatrick: Let me just go back to the intro I neglected to give to the beginning of the panel, and then maybe this will turn into a question for Dave and Joyce, or any of you. The headline of the piece in the magazine says, "It's a dilemma. These companies are too big to tolerate, but too big to stop," and I believe their sheer scale is frightening, because there really is so much going on behind the covers that is so socially determinative at the global and national level in literally every company where they operate. And yet, there is no good idea really anywhere either on the part of regulators or even pundits, or certainly inside the companies themselves about how to give more genuine transparency to society so what we can be—even if it is true that Amazon is giving fundamental benefit to consumers, that we can be confident that we know how these systems are working. I mean, the quantity of data that Amazon has about my household, however much financial value I might get by buying products from them makes me

nervous. So they may not be abusing it, but I would like guarantees that they are not, and that does not exist. So there is actually no guarantee about anything these companies are doing, except their good will at the moment. And yet, they are achieving a scale that I don't think any commercial entity has ever achieved, so that's why we have this discussion in the first place. To me, it just has to be had, and obviously the Russian electoral interference has raised the issue very prominently at the national debate level, and has got countries all over the world asking these same questions.

Mahaney: I think if you look at the history of the media industry, there are parallels to what we have now. Now it's interesting, when the large tech companies are asked if they're media companies. Yahoo used to do it, and everyone at AOL before, they would say, "We're not a media company, we're a tech company." Well, it's probably actually not much different than a newspaper publisher would've said in the 1800s. I mean, printing technologies were pretty innovative at that point. Early broadcast companies, they saw themselves at technology companies. Now in this case, 100 percent of the revenues are based on advertising. The business of media at least, as I see it, is the provisioning of consumer contact. That's what they do.

Kirkpatrick: Contact?

Mahaney: Contact. That's where the money is, and that's clearly what Google does, and that's clearly what Facebook does. I think Amazon is in quite a different business than that. In most of the cases, and virtually all of the cases of the history of media that we had before, there's been a requirement for a real geographic nexus. The printing press was located in a place, your distribution was limited to where you could go to. You then started using government franchises, cable franchises to stream it, or broadcast licenses. And so that geographic nexus was fixed much closer to actual consumers, people, government, and you had a lot of regulation. And as we know, I mean, the newspaper industry has been terrible about trying to go beyond it. I mean, they bought broadcast companies until they were kicked out. They bought cable companies until they were kicked out, and a lot of the original antitrust cases, the core ones, came out of the newspaper industry. So it's not unusual that we've had a problem because media companies tend to be highly profitable flywheel companies. The bigger they get, the faster they get, the more profits they get. We've typically been able to reign them in because of the geographic nexus, and because they were things that had a fair amount of government control. That will be a big issue here, I think.

Kirkpatrick: Because there's no geographic nexus.

Mahaney: And it's not just the regulatory things, it's the way you run the business. I think it was interesting when they first started putting ads on the Kindle, Jeff Bezos personally reviewed every single ad. He seems very concerned about losing credibility with the consumer of the Kindle. Now, there may be something to it, the consumer side of Amazon businesses are largely run at a loss, whereas on the other side in the Facebook and the Google cases, there are massive margins.

Kirkpatrick: But as an ad expert, Amazon's advertising business, as Mark well knows, is probably one of the most exciting growth opportunities for it right now. It's getting a lot of attention. Do you think the DNA that sort of started with that Kindle thing you mentioned is still there? Is there a different approach to advertising at Amazon vis-a-vis Facebook and Google?

Mahaney: I think so, because I think that the fundamental approach, at least as we heard it, and I think have seen it manifest in the market, is to continue to draw prices to the consumer. Not unlike a Walmart strategy, and so that will be used to drive the price of the goods down, and bring a lower price in to the consumer. I don't know that the other intermediary advertising business is not saying that that's wrong, because that's how a media company is run. We're different. I think Amazon is fundamentally a commerce company, not a media company. It may exploit media to drive better commerce.

Kirkpatrick: Either of you want to say anything?

Vance: Well I would just say I think it's an interesting issue, right? Geography as the way that we regulate companies, there's a bill right now that's being floated in the senate, it was floated by Senators Klobuchar and Warner who are Democrats. They've picked up Senator McCain as a cosponsor, and it's really based on the idea of bombing people with information. The bill would provide a flashlight, so that people would know who was promoting advertising, particularly on Facebook and Twitter, but it would do it in a clever way. It would require the companies to preserve the ads, and to preserve the information about who is paying for them, both for political ads and in a portion of the bill I'm not positive works yet, but that's aimed more towards this advertising that we hear so much that's devised to divide people, rather than to support a political candidate. So supporting this idea of confrontation between white supremacists and Muslims. But it would require the companies to preserve that information and then make it publicly available, and the unspoken assumption is that journalists would then become the people who would save America. It would sort of be government ceding its role, the role it plays in the regulatory context, and avoiding the geography issue, the, "How do we regulate?" issue by shifting the burden for keeping the companies honest onto the press.

Kirkpatrick: But also it's only a U.S. solution, and these companies are operating globally.

Vance: Absolutely.

Kirkpatrick: I'm going to ambush somebody in the audience in a minute, because I do want this to be a room-wide discussion. And I just want to say one thing, because I am a well-known pundit on one particular of these companies, and we had their CEO here last year. Somebody yesterday, who's a friend of mine and a journalist, said to me, "So fundamentally, do you think these companies are good or bad?" Facebook, in particular, he was asking about. And I said, and I wrestle with this every day, I wrote a book about Facebook because I was so excited about it's positive capabilities. And I still think on balance Facebook is good for the world, definitely. And there's plenty of ways I could explain why. However, there is a very rapidly growing accumulation of stuff on the negative side that the company is not addressing, even

with its agreement to spend money on unspecified things. And we haven't even talked about the privacy questions, for example. You know, it was interesting in this—if you watch the senate intelligence committee hearings, which you probably did Mark, I certainly did. You know, two senators told Facebook that you have more data about the American people than the U.S. government has, so at least some senators are starting to realize that. Now that in itself is a regulatable issue, somehow. I mean, it's not something that is going to not be acted upon ever. There are a lot of other issues, and I guess the point to quickly finish is, I want to see these companies survive and thrive, and I think they need to have more oversight in order to do that, for their own best interest.

Morgan: I mean, I think that we're all here because we care about technology. I think these companies are truly doing things that they believe are better and right, and I think there's amazing benefit because Facebook has built the amount of network and information that exists today. I mean, my mother in her mid-80s is able to keep in touch with friends and people, and otherwise. And I can keep in touch with people in a small coal town in Pennsylvania where I grew up, that I wouldn't have otherwise been able to. I mean, there's a lot there. I think what we're all saying is that we know that if we don't find some ways to contain it, and I think it's in their own best interest. I think that Microsoft, if they had gotten ahead of issues before all of their antitrust issues that they ran into before would be a much healthier company today, and we'd have better technology if they'd gotten in front of it, and maybe even broken themselves up.

Kirkpatrick: I think Microsoft's healthier today because the government came after them, but that's another thing.

Mahaney: It'd be even more so if they had proactively done it.

Kirkpatrick: That's true.

Morgan: Two points. One, these are extremely powerful platforms, and maybe in society we've been kind of lucky with some of the founders and leaders of these companies. You can just imagine what would happen if a narcissistic leader were to be in charge of one of these companies. I mean, would you want to live in a country with a narcissistic leader? I'm sorry, I'm off a little of a tangent. But it is worrisome, I mean these are very powerful platforms. Somebody's going to replace Mark Zuckerberg at some point, and that person has a non-company agenda. I'm not sure they're out there trying to save the world; they're trying to grow their own businesses, I think that's a wonderful thing. I don't necessarily think it's great for everybody, at some point the regulators need to step in. I don't think regulators are what stepped in and really stopped Microsoft's momentum, I think it was competition. I just want to remind us that if we were here ten years ago, we would have talked about these incredible behemoths called eBay and AOL and Yahoo. And what I like is the fact that these companies, they'll have their comeuppance probably because of competitive risk. Largest market-capped companies in the world now include these companies. Now Tencent and Alibaba, those two are

going to be competing directly with some of these companies. I think that competition is a good thing, and I think that competition could regulate these companies.

Kirkpatrick: I would just disagree with you on one thing, though. I think Zuckerberg thinks he's doing more than just building a company for his shareholders. I mean, he's made that very clear with his 450-word essay on building global community. Some of the things he said on stage here last year, he is an unusual leader, and it's another reason why I wrote a book about him. But he is in a real bind, because he's got such a successful business based on advertising that's almost going away from his own vision, and yet he can't stop that because he's got Wall Street at his tail giving him a \$500 billion-dollar market cap.

Mahaney: I think if you look, if you go back to the very beginning when Google was founded, one of the biggest reasons there was not advertising on the platform in the beginning was a concern the founders had that they would ultimately have to change the way the search results came in, the organic search results, because they would need to modify it for revenue purposes rather than "I'm feeling lucky" to give you exactly the very best result. Well, I think anybody that would look at Google in 2000, and then look at Google in 2017, would see organic results, that you don't really get your first real organic result until probably the third page on number 22.

Vance: And one practical problem that I think is perhaps more easy for me to access than you all. I bet I'm the only lawyer in the room, certainly if I'm not the only lawyer—well okay, so two of us.

Kirkpatrick: There's a few other lawyers in the room, but anyway.

Vance: Not a technology lawyer, not somebody who focuses on it explicitly, and the problem that the industry has, is that the people in Washington who will be called on to regulate the tech giants, are people who fundamentally don't understand what's going on here. So part of the issue is, "How do you give them the language, the understanding, the desire to acquire the information?" Because they're busy people, they don't focus for very long on anything. You've got to convince them that this version of the industrial revolution is something that they've got to get right, that it will be their legacy if they do this properly.

Kirkpatrick: I happen to think the Russia thing is helping make that happen, but thank you for saying that. Where's Roger? Roger, put your hand up. Where are you? I've got to embarrass you and ask you to join this conversation from over there. Roger McNamee, as my book explains, more or less brokered the relationship when Mark Zuckerberg hired Sheryl Sandberg. He has more recently become something of a critic as he may evidence in whatever he says now. But say something about what we're talking about, Roger. You have watched all of this quite closely for a long time, what do you see going on?

McNamee: So to Mark and Dave, the observation I would make is that the problem here is not the products. There's nothing wrong with social networks or search, the problem is with

advertising as a business model in the era of smartphones. So essentially, we think about advertising models that have existed since the 1830s with tabloid newspapers, and the model was always, "If it bleeds, it leads," right? That in fact, if you have an advertising-based business model, you want to appeal to the emotional side of people, not to the cerebral side. And in this particular case, the problem is compounded by two factors. One is that for the first time you have a medium that is available to you every waking moment, so previously newspapers, television, radio, all had form factor issues that prevented you from interacting more than a couple hours a day. They also were broadcast, everybody got the same thing. Now Facebook has 1.3 billion people every single day, each with their own channel. There are 150 touches of the smartphone per day, on average 2,300 swipes or actions on the products per day, per person.

Kirkpatrick: Really? Interesting.

McNamee: They are deeply addicted. Every sign of addiction that you see in any medical situation, you can find precisely in the hands of the vast majority of the people in our country. Remember, 75 percent of Facebook people get news off of Facebook—sorry, 67 percent. 75 percent of all Americans use Facebook. So what you have here is a highly addictive population with a platform where it turns out, nobody thought through, could be abused. People could use that to manipulate all kinds of things, not just advertisers, but also governments.

And to Joyce, the one issue I would say to you about the challenge that we face here, I think regulation is unlikely here. I think politically the country has forgotten the role that government plays in setting the rules and enforcing them in business, and so it's a consequence, I think, of regulation. If we see it, I think you'll see a lot of motion towards it, but I think in the final analysis we probably won't get any. And I think that's really too bad, because I think these things have jumped the tracks in a really, really dangerous way, and I think the 2018 elections—there is no hope to prevent massive manipulation by essentially anybody who's willing to buy ads on Facebook. So I don't think it'll just be the Russians, it'll be all kinds of people.

Kirkpatrick: Though it was interesting that BuzzFeed tried to emulate what the Russians did, to take a fake story and target it at a very, very narrow highly-conservative population in a specific geography, and they were able to do it and get it past this Facebook approval process. And that happened like, two weeks ago.

Vance: And it continues to impact elections. Alabama has a senate race in December to replace Jeff Sessions, who's now the attorney general. A story emerged a couple weeks ago that Russian bots were lining up behind the Republican judge Roy Moore, so the problem hadn't been cured.

McNamee: Can I throw one more thing to Joyce? Which is that, imagine that advertising was an essential part of the program, but my guess is that it's somewhere between 1 percent and 5

percent of what they were doing. And this was set up years in advance, this has been going on for a long time, and it still goes on every day. It happened after the guy in Las Vegas, immediately you saw stuff up.

Kirkpatrick: Fake stuff?

McNamee: You can't do this stuff without Facebook. It's not the only piece, it starts in 4chan and Reddit, works on to Twitter, and then comes to Facebook. But you need all those pieces, and we missed it as a country. The most alarming thing to me is we feel no sense of urgency to do something about it.

Kirkpatrick: No, I think that might be shifting.

Morgan: I think one of the things that Roger has hit on that we have not confronted before in all the different media issues in dealing with anti-competitive issues, or others, are that the advertising has truly become global, or the entry points are global. So even the television industry was largely a local media and medium for advertising. It's the advertising part, this massive amount of advertising that can come in anonymously. Because newspapers, I mean the newspaper industry, even at its height had at best 5 percent of its revenue nationally placed. It was ultimately owned locally, the broadcast licenses were held locally, the advertising came in locally.

But now with the digital companies, first they have anonymous ways in, most places you couldn't by an anonymous ad in a newspaper or magazine. You had to represent yourself, pass a credit check, you couldn't do it through a limited liability corporation that could also put Russian money into a tower in New York. But now, you have this money that's extra-national, that's extra local, and there's no way to control it, and it's totally funding what the platforms are for information. Because the other point, Roger, I'd say is that these advertising supported companies that have won have been some of the reasons that all the local media companies have died, so we don't have an anchoring in these communities for news and information, which is why Facebook has become that.

Kirkpatrick: Just quickly, do you think given your example about the Kindle and Bezos, do you think that Facebook and Google should play a much more active role in rejecting a fair amount of advertising? Because they really reject very little except nudity, threats of violence against another individual, etcetera.

Morgan: I think they have to, and the thing I loved in my little bit of time as a newspaper lawyer was that we reserve the right to reject any ad, at any time, for any reason. That's something you can do in the newspaper industry, and you did it based on your judgment. Obviously, you had to be careful around things like housing and discrimination issues, there were a couple areas you had to watch for. I think they realize that their becoming fully automated helped them get massive scale, but to your point Mark, about the capex they're

going to have to bring in now, now they realize, if they can't put filters up, quite frankly, you're going to need a lot of humans to run the filters well, just as Craig had to do with Craigslist.

Vance: But to go back to Roger's point, if I understood it, that something like 1 percent to 5 percent of this was advertising, a lot of it is fake people, right? And it's important to think about 4chan and Reddit and their involvement. Russia's goal originally was never to elect Donald Trump or anybody else president, their goal is to disrupt our system, to disrupt our economy, our political systems, our culture, and so this what we really have to I think confront. And that's not as easy as just a newspaper or Facebook saying, "We won't accept this ad." That's why we have to have a long-term strategy that involved helping people understand what's happened here. You know, first amendment lawyers, you know this, love to say that the answer to bad speech, the answer to hate speech is good speech, and more of it. We need an approach like that in this area.

Kirkpatrick: Mark, anything?

Mahaney: I think you made a comment Joyce that the U.S. government would never be able to understand this. I think, actually, that Facebook was surprised and they didn't understand it either. I think it took them months to realize how they had been—how their platform had been used. Whether these internet companies, ad-supported internet companies are really the nicotine vendors of today, I'm not going to go there, I don't believe that. I think that there's a much greater social benefit that they provide. I'm not sure that that's their mission in life, but I think that what we have in a Google age the ability to get information at anytime, anywhere is a wonderful thing.

Somebody has got to pay for that, and they built up a model where advertising pays for it that's highly targeted and relevant. Now, you want to take apart Facebook for putting up ads and accepting this? Yes, the transparency behind the Honest Ads Act seems like a no-brainer. I'm actually surprised that internet companies are actually excluded from that kind of disclosure, in the past it seemed like a no-brainer move to do that. I just want to be careful not to overregulate some of these companies, I think there's risks to that. I think there is competition that will help out, and I do find it a little bit amusing. We were just attacked by the Russians, and now we're attacking Facebook?

Vance: Amen.

Kirkpatrick: Okay. Who has a comment or a question?

Hill: Hey, thanks so much. I'm Zach Hill with future.com. One of the things y'all were talking about is not while regulating this ad architecture, is to figure out where the money is coming from, and you were alluding to that in the newspaper sector. As it gets easier and easier to transact with financial anonymity, is that going to pose a challenge to regulators to even figure out who's behind any of this in the first place?

Morgan: To me, that's a big piece that has changed in bringing the funds in that wasn't there before. And I think that it's not the attacking of Facebook, it is this piece, it's going to be the financial anonymity, "Where's the money coming from?" and then some degree of control and scrutiny, and then we will have to ask ourselves the question about all the users and the bots. I just heard Dick Costolo ask this on Bloomberg the other day, like, "Don't you think it's time that Twitter should just kill all the bots, and make everybody go who they are?"

Hill: He asked that?

Morgan: He was asked that, and he—

Kirkpatrick: Did he have an answer?

Morgan: He dodged it a little bit, but he basically said, "Yes, this is something that is going to have to be dealt with now." I do think one of the ways is, just as we've seen in the real estate market, they're now already penetrating these LLCs as to where the money comes from. And that happened because Louise's story from the *New York Times* wrote a piece about it and dug in, and found something people hadn't seen. And I think that, a) we want to support that kind of journalism, but b) we're going to have to look at the funding of the platforms. It may not just be the advertising, it's the platform, and anonymity is going to be the enemy of our being protected.

Kirkpatrick: Really quick before we go to the next question. I wanted to ask you Dave, because you're an entrepreneur, you've got a big company, but you're basically a big startup and you talk to these kinds of people all the time. You're deep inside the Union Square Ventures ecosystem, so you know what a lot of people are thinking. How much do you hear people talking about this as a potential problem for the growth of other businesses?

Morgan: I don't hear it that much, and I think one of the reasons is all of us went into this, and I've been doing this for 25 years, and I don't believe in regulation. I mean, I've testified in Washington against regulation and against some of these kinds of things. Because I'm an optimist and I believed that the open web was going to democratize everything, I didn't quite expect that we would see a couple companies become highly centralizing in that. I hoped that all the controls would work, but I think there's a belief that once you get extra national, there's a lot of things that we're doing in this country that just aren't that.

I mean, you don't have a free newspaper press almost anywhere outside of the United States like you have here, no matter what people say. Because there's nationally owned, nationally controlled, you've got to have licenses to buy your newsprint, there's a lot of protection that we have that others don't. And so we can give freedom to companies to operate here under ad-supported business models and give them domicile here, and they can then leak in money from a lot of other places. It's very hard for them to stop, and it's very easy for them to say, "Well, I can't control that piece, I'm not allowed to."

Elron: Dan Elron, Accenture. I want to connect this to a comment that was made in the first panel about these geographical stacks, if you remember. We don't have a world government, so if you take this reasoning forward, we'll probably end up, and I wonder if the panel agrees, with a Chinese internet, and a Chinese stack, and maybe a U.S. one, a Western European one, and who knows what else. Isn't this inevitable from your perspective?

Vance: So I'll just say this, something that we are really bad at doing is creating transnational legal systems. And in fact, maybe we're walking backwards as Britain prepares to depart from the EU. So I don't know enough to say whether we'll end up with separate stacks, but I think it is unlikely we will have effective transnational legislation, and that is really a huge missed opportunity here. If I was working at Facebook or Twitter, I think I'd actually be talking with folks in the industry about what are the kinds of regulation on impact, as opposed to development that we can tolerate, and lets us as an industry put it on its head and go ahead and propose those things.

Morgan: And I'd add one little point to it that's really critical in media. In most cases, in media and advertising, you're selling [something] intangible, and it's very hard to price. And so market by market, you're in different taxing jurisdictions. And I've sold a lot of transnational advertising, and one of the ways there's a lot of tax evasion and tax leaking in the global media, is that you price something up in one market, and down in another market, and you sell it in a bundle and optimize it for one or you optimize it for the other. And it's hard, you only have market-commodity pricing against it, because it's closed private transactions. So I think it's inevitable as we see these large commerce and advertising-driven businesses, and you have taxing jurisdictions that also want to control the societies, that we're going to see closed stacks, yes.

Kirkpatrick: I want to touch on something you and I talked about, Joyce, and ask you to elaborate. You know, the most aggressive regulatory step directed at these companies that is imminent is the GDPR, which is the European privacy rules that go into effect, I believe, May 1, or maybe it's June 1, but coming up. And those are really aggressive in terms of where you can hold the data, and transparency to the individual, etcetera. Many, many elements that will be very hard to comply with, and expensive. And that is not happening here, but you made an interesting comment that if we didn't do anything, that law, or that set of laws, might in effect end up defining our regulatory regime here, and it would be kind of unprecedented. Can you just speak to that?

Vance: We may well have ceded the American role in leadership because at the end of the Obama administration, when it looked like there was going to be a move towards understanding cyber, and sort of stepping up and taking responsibility in this area, we backed out of it, and so the Europeans have gotten ahead of us. I don't know, but I suspect the companies won't have the capacity to stack in terms of these internal processes, because I don't interact simply with people in the United States; I talk to my friends in Belgium, and my friends in Australia, and it would be I think incredibly complex. So they by default will need to

comply with the more restrictive European regulations, and at the end of the day, the Europeans may get to answer all of these issues about privacy and about advertising, and about openness and how you reveal. And we may just have given up our leadership role despite the fact that most of these companies are American products.

Kirkpatrick: Just an interesting observation on this geographic thing. You know, China—Mark Zuckerberg really, really, really wants to operate there, to the point where he actually asked Xi Jinping to name his child. That's a fact. Whereas Google, after getting repressed there, said, "You know what? Bye bye, we're not going to play your game," which is quite a contrast, and it's just worth noting. Do you agree, Mark? Did I characterize that roughly accurately?

Mahaney: Most people have forgotten about that, but Google took a highly principled position on that. They weren't going to allow their servers to be censored. I thought that was great from a principle perspective, but it wasn't that great from a market cap perspective, but that's the past, and Zuckerberg has clearly said he's willing to go into China and abide by Chinese censorship. I don't know whether that's a good thing or not, but he's been very clear about that.

Reynolds: At the very first Techonomy, Eric Schmidt said that the world is not ready for the technology revolution that's coming. And when asked what's our guard against that, he said, "It's the 'off' button." It was a joke before dinner that you asked him on stage.

Kirkpatrick: It was the what?

Reynolds: The "off" button was the safeguard, here. But Roger, your point is that we're not hitting the off button, we're hitting every button except the off button. The topic here is reckoning with the new hegemonists, here's my question.

Reynolds: How do we identify who the new ones are? How do we know who the next Facebook, Google, Apple are, when we're talking about directly into the brain? When their off button becomes the off button to my brain, how do I shut off—

Kirkpatrick: Okay, that's a really good comment/question.

Reynolds: But my question is, we can innovate faster than we can regulate.

Kirkpatrick: It's a horrible question though, because there is no answer. I mean, if anybody has the answer, I'd like to hear, but I dare say we wouldn't get one.

Identify yourself.

Irving: I'm going to make this a comment rather than a question. I'm Larry Irving. I'm out of Washington, D.C. and I'm also a lawyer. And 25 years ago I had one of the roles of crafting the early internet policy for Bill Clinton and Al Gore, and the whole concept of light-touch regulation is something we kind of devised in the '90s. The question you asked earlier, "Is there any

likelihood of regulation of the internet, of tech companies?" My answer is probably not, and the reasons are twofold.

One, Republicans are almost genetically opposed to any kind of regulation of any sort, but interestingly on the left, for the first time ever I've seen, there's been almost a capitulation by the think tanks, by the consumer organization progressive advocacy groups; they're silent. Whether you're talking cable, or pharma, or telcos, or insurance; there's always been some concern about what's happening in the marketplace. This is the first time I've seen legislators and governors and elected officials more concerned about what's happening with regards to particularly the big four, than you're seeing with consumer advocates and consumer groups. And unless you get that kind of grass-roots, bottom-up, think tanky kind of basis for regulation or legislation in thoughtful ways, it's really hard to get legislation passed. So I'm not sure quite what's happening in Washington, but I would say that the progressive organizations are kind of not stepping up to the plate, and at least asking the tough questions that I think need to be asked.

Kirkpatrick: Okay, interesting comment, and rather than call on Marc Rotenberg to talk about it now, since he runs the Electronic Privacy Information Center, and he is going to be on a session tomorrow on this, so I'll leave it to him to talk about it then, but I think he would probably disagree with at least part of what you're saying.

Rotenberg: I doubt it.

[LAUGHTER]

I'll just say that Larry and I are co-authors on an essay that explores this problem, and if someone wants to speak with us about publishing it, talk with us after the session, because it's excellent.

Kirkpatrick: Well, there you go.

Rotenberg: It's a 25-year tell-all story.

Kirkpatrick: All right, well, interesting. Does anybody up here have a last comment, because we have run out of time, but there's a lot to say on this topic, clearly.

Morgan: I continue to be optimistic. I mean, I think the opening sessions make me really excited about all the problems we can solve for humanity, so I've got to believe we can tackle this.

Kirkpatrick: Okay, good. Thank you, Dave.

Mahaney: I liked your implicit point, which is that there's going to be major technology shifts, both ahead of us for the next 20 years. If anybody here predicted how many people would line up to buy a thousand-dollar smartphone ten years ago, god bless you. And the impact that smartphones have had on people's lives, narrowband, broadband, and all of these shifts now.

We have voice-activated devices, and I think what it's probably going to do is lead to the creation of new companies, and that's why Microsoft missed the internet, and that's why their market cap isn't anywhere near as great as it could've been. And I'm sure that's the next thing, there's going to be some sort of trend that Google will probably miss, or Facebook is going to miss, and Amazon is going to miss, and there's going to be some other great company. Let's let competition kind of erode the hegemonists naturally and only really when there's excess activity step in with regulation. That's my point.

Kirkpatrick: Thank you Mark, thank you Dave, thank you ,Joyce.